

**§ 1000.21 When does a Tribe/Consortium have a “material audit exception”?**

A Tribe/Consortium has a material audit exception if any of the audits that it submitted under § 1000.17(c) identifies:

(a) A material weakness, that is a condition in which the design or operation of one or more of the internal control components does reduce to a relatively low level the risk that misstatements in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions;

(b) a single finding of known questioned costs subsequently disallowed by a contracting officer or awarding official that exceeds \$10,000. If the audits submitted under § 1000.17(c) identify any of the conditions described in this section, the Tribe/Consortium must also submit copies of the contracting officer's findings and determinations.

**§ 1000.22 What are the consequences of having a material audit exception?**

If a Tribe/Consortium has a material audit exception, the Tribe/Consortium is ineligible to participate in self-governance until the Tribe/Consortium meets the eligibility criteria in § 1000.16.

## ADMISSION INTO THE APPLICANT POOL

**§ 1000.23 How is a Tribe/Consortium admitted to the applicant pool?**

To be considered for admission in the applicant pool, a Tribe/Consortium must submit an application to the Director, Office of Self-Governance, 1849 C Street NW; MS 2542-MIB; Department of the Interior; Washington, DC 20240. The application must contain the documentation required in § 1000.17.

**§ 1000.24 When does OSG accept applications to become a member of the applicant pool?**

OSG accepts applications to become a member of the applicant pool at any time.

**§ 1000.25 What are the deadlines for a Tribe/Consortium in the applicant pool to negotiate a compact and annual funding agreement (AFA)?**

(a) To be considered for negotiations in any year, a Tribe/Consortium must be a member of the applicant pool on March 1 of the year in which the negotiations are to take place.

(b) An applicant may be admitted into the applicant pool during one year and selected to negotiate a compact and AFA in a subsequent year. In this case, the applicant must, before March 1 of the negotiation year, submit to OSG updated documentation that permits OSG to evaluate whether the Tribe/Consortium still satisfies the application criteria in 1000.17.

**§ 1000.26 Under what circumstances will a Tribe/Consortium be removed from the applicant pool?**

Once admitted into the applicant pool, a Tribe/Consortium will only be removed if it:

(a) Fails to satisfy the audit criteria in § 1000.17(c); or

(b) Submits to OSG a Tribal resolution and/or official action by the Tribal governing body requesting removal.

**§ 1000.27 How does the Director select which Tribes in the applicant pool become self-governance Tribes?**

The Director selects up to the first 50 Tribes from the applicant pool in any given year ranked according to the earliest postmark date of complete applications. If multiple complete applications have the same postmark date and there are insufficient slots available for that year, the Director will determine priority through random selection. A representative of each Tribe/Consortium that has submitted an application subject to random selection may, at the option of the Tribe/Consortium, be present when the selection is made.

**§ 1000.28 What happens if an application is not complete?**

(a) If OSG determines that a Tribe's/Consortium's application is deficient, OSG will immediately notify the Tribe/Consortium of the deficiency by letter, certified mail, return receipt requested. The letter will explain what

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the Tribe/Consortium must do to correct the deficiency.

(b) The Tribe/Consortium will have 20 working days from the date of receiving the letter to mail or telefax the corrected material and retain the applicant's original postmark.

(c) If the corrected material is deficient, the date of entry into the applicant pool will be the date the complete application is postmarked.

(d) If the postmark or date on the applicant's response letter or telefax is more than 20 working days after the date the applicant received the notice-of-deficiency letter, the date of entry into the applicant pool will be the date of full receipt of a completed application.

### **§ 1000.29 What happens if a Tribe/Consortium is selected from the applicant pool but does not execute a compact and an AFA during the calendar year?**

(a) The Tribe/Consortium remains eligible to negotiate a compact and annual funding agreement at any time unless:

(1) It notifies the Director in writing that it no longer wishes to be eligible to participate in the Tribal Self-Governance Program;

(2) Fails to satisfy the audit requirements of § 1000.17(c); or

(3) Submits documentation evidencing a Tribal resolution requesting removal from the application pool.

(b) The failure of the Tribe/Consortium to execute an agreement has no effect on the selection of up to 50 additional Tribes/Consortia in a subsequent year.

### **§ 1000.30 May a Tribe/Consortium be selected to negotiate an AFA under section 403(b)(2) without having or negotiating an AFA under section 403(b)(1)?**

Yes, a Tribe/Consortium may be selected to negotiate an AFA under section 403(b)(2) without having or negotiating an AFA under section 403(b)(1).

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### **§ 1000.31 May a Tribe/Consortium be selected to negotiate an AFA under section 403(c) without negotiating an AFA under section 403(b)(1) and/or section 403(b)(2)?**

No, section 403(c) of the Act states that any programs of special geographic, cultural, or historical significance to the Tribe/Consortium must be included in AFAs negotiated under section 403(a) and/or section 403(b). A Tribe may be selected to negotiate an AFA under section 403(c) at the same time that it negotiates an AFA under section 403(b)(1) and/or section 403(b)(2).

#### **WITHDRAWAL FROM A CONSORTIUM ANNUAL FUNDING AGREEMENT**

### **§ 1000.32 What happens when a Tribe wishes to withdraw from a Consortium annual funding agreement?**

(a) A Tribe wishing to withdraw from a Consortium's AFA must notify the Consortium, bureau, and OSG of the intent to withdraw. The notice must be:

(1) In the form of a Tribal resolution or other official action by the Tribal governing body; and

(2) Received no later than 180 days before the effective date of the next AFA.

(b) The resolution referred to in paragraph (a)(1) of this section must indicate whether the Tribe wishes the withdrawn programs to be administered under a Title IV AFA, Title I contract, or directly by the bureau.

(c) The effective date of the withdrawal will be the date on which the current agreement expires, unless the Consortium, the Tribe, OSG, and the appropriate bureau agree otherwise.

### **§ 1000.33 What amount of funding is to be removed from the Consortium's AFA for the withdrawing Tribe?**

When a Tribe withdraws from a Consortium, the Consortium's AFA must be reduced by the portion of funds attributable to the withdrawing Tribe. The Consortium must reduce the AFA on the same basis or methodology upon which the funds were included in the Consortium's AFA.

(a) If there is not a clear identifiable methodology upon which to base the reduction for a particular program, the